

January 19, 1999

DURHAM, NORTH CAROLINA  
TUESDAY, JANUARY 19, 1999  
7:30 P.M.

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time a "Resolution Honoring Cecil Avery Brown", former Deputy City Manager, was read and presented to him.

Several students from Eastway Elementary School addressed council sharing information on how the City can assist their community.

Mayor Tennyson asked for priority items from the City Manager, City Attorney and City Clerk. City Clerk Bowers stated that the protest petition filed against Zoning Case P98-39, Urban Retail Properties, was ruled invalid and insufficient by the City Attorney's Office.

There were no priority items from the City Manager and City Attorney.

The Mayor asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. **[No items were pulled from the Consent Agenda]**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: TRIANGLE TRANSIT AUTHORITY'S ANNUAL REPORT FOR FISCAL YEAR ENDED JUNE 30, 1998**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive the Triangle Transit Authority's Annual Report was

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approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: WORKFORCE DEVELOPMENT BOARD APPOINTMENTS (FORMERLY THE PRIVATE INDUSTRY COUNCIL)**

**MOTION** by Council Member Larson seconded by Council Member Miller to appoint the following citizens to the Workforce Development Board for terms to expire July 1, 2000 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**DURHAM CHAMBER OF COMMERCE RECOMMENDATIONS**

Private Sector

Don Cimorelli	IBM
John Clayton	West Durham Transfer & Storage
Deborah Gilbert	Westaff
Roger Gregory	N.C. Mutual Life Insurance
Edgar Murphy	Nortel
Jim Worthington	Poe, Hoof & Reinhardt

Economic Development

Tom White	Greater Durham Chamber of Commerce
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Employment

Kathy Keefe	Employment Security Commission
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**JOB TRAINING PARTNERSHIP ACT SPECIFIED AGENCY  
REPRESENTATIVES**

Education

Tom Russo	Durham Technical Community College
Nan Coleman	Durham Public Schools
Steve Smith	Duke University

Community Based Organization

Glendola Beasley	Durham Business and Professional Chain
Constance Stancil	Hayti Development Corporation

**SUBJECT: RESOLUTION HONORING BETSY ROLLINS**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Honoring Betsy Rollins" was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro

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Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.  
Noes: None. Absent: None.

**SUBJECT: RESOLUTION HONORING AVERY DIMMIG**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Honoring Avery Dimmig" was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.  
Noes: None. Absent: None.

**SUBJECT: LIVE TRAINING EXERCISE - 2701 PICKETT ROAD**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the burning of a vacant structure located at 2701 Pickett Road on Saturday, January 23, 1999 for the purpose of live fire training was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: BIMBE' FESTIVAL SPONSORSHIP DEVELOPMENT AND MANAGEMENT CONTRACT - R. B. WYNN CONSULTANTS**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract in the amount of \$7,500 with R. B. Wynn Consultants to recruit, develop, and manage all the sponsorships for the 1999 Bimbe' Festival, which contract also provides for commissions to be paid to the contractor on sponsorships obtained for the festival by the contractor; and

To authorize the City Manager to make revisions to the contract such that the contractor's obligations are not lessened was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: BIMBE' FESTIVAL COORDINATION AND PLANNING CONTRACT - THE EVENT GROUP**

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**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a contract in the amount of \$9,750 with The Event Group to develop, produce, promote, manage, and coordinate the 1999 Bimbe' Festival and to be responsible for its operation; and

To authorize the City Manager to make revisions to the contract such that the contractor's obligations are not lessened was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO EXISTING WATER TREATMENT PILOT PLANT ENGINEERING SERVICES CONTRACT WITH HAZEN AND SAWYER, P.C.**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute Amendment No 1. to Contract for Engineering Services for Water Treatment Pilot Plant Design and Operation with Hazen and Sawyer, P.C. of Raleigh, N.C. to conduct a "high rate filtration study" at an estimated cost of \$46,000 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: SINGLE-FAMILY DWELLING CONCRETE TESTING RECOMMENDATIONS**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report from the City-County Inspections Department regarding single-family dwelling concrete testing recommendations and to approve the final list of recommendations as shown in the report was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CITYWIDE STORM WATER INFRASTRUCTURE INVENTORY PROJECT - HAYES, SEAY, MATTERN & MATTERN, INC.**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract in an amount not to exceed \$2,865,160 with Hayes, Seay, Mattern & Mattern, Inc. for the Citywide Storm Water Infrastructure Inventory Project was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth,

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Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CONTRACT ST-193 - STREET RESURFACING AND SPEED HUMPS**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract in the amount of \$494,845 with Nello L. Teer Company for Contract ST-193; and

To authorize the expenditure of \$15,000 from the Traffic Calming Account; and

To authorize the expenditure of \$20,000 from the Sewer Extensions and Improvements Account was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-20 - SANITARY SEWER REHABILITATION BY INVERSION LINING, JONES BROTHERS, INCORPORATED**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a contract in the amount of \$601,438.55 with Jones Brothers, Incorporated for Contract SR-20; and

To authorize the expenditure of \$695,000 from the Sewer Rehabilitation Account was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: INFORMATIONAL ITEM AND RESOLUTION ON THE DRAFT 2000-2006 TRANSPORTATION IMPROVEMENT PROGRAM (TIP)**

a. Report on Draft 2000-2006 TIP

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report from the Administration concerning the Draft 2000-2006 TIP was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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- b. Resolution Concerning the Draft 2000-2006 Transportation Improvement Program (TIP)

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution Concerning the Draft 2000-2006 Transportation Improvement Program (TIP)" was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

(Councilmember Virginia Engelhard abstained from voting on any portion of the Resolution concerning the East End Connector due to a conflict of interest)

**SUBJECT: HB 1361 - ANNEXATION AND INCORPORATION LAW CHANGES**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report on the effect of HB 1361 on involuntary annexation of unincorporated areas was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CITY COUNCIL RETREAT - SATURDAY, JANUARY 23, 1999**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt the attached January 23, 1999 City Council Retreat Agenda was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: BIDS - ESTIMATED ANNUAL REQUIREMENTS FOR DIESEL FUEL, HEATING OIL, AND KEROSENE, COUCH OIL COMPANY OF DURHAM, INC.**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the bid from Couch Oil Company of Durham, Inc. in the amount of \$179,483.50 for furnishing the City with its estimated annual requirements for diesel fuel, heating oil, and kerosene (2,500 gallons kerosene, 153,000 gallons off-road diesel, 6,000 gallons No. 2 heating fuel, and 291,000 gallons on-road diesel)

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was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Curb, Gutter and Paving, Sewer Main, and Water and Sewer Laterals -Alfred Street** from Riddle Road to Jerome Road --Setting Public Hearing to Consider Ordering the Petitioned Improvements

**MOTION** by Council Member Larson seconded by Council Member Miller to accept a Certificate of Sufficiency from the City Engineer for the petition for curb, gutter and paving, sewer main, and water and sewer laterals on Alfred Street from Riddle Road to Jerome Road; and

To adopt a resolution setting a public hearing on Monday, February 1, 1999 to consider ordering the improvement was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: PARKING PROHIBITION - JUNIPER STREET**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance to prohibit parking at any time at the following locations was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- 1) on the south side of Juniper Street, in the area beginning at the west curb line of Spruce Street, if extended, and extending for a distance of 100 feet westwardly; and
- 2) on the north side of Juniper Street, in the area beginning at the east curb line of Fay Street, if extended, and extending for a distance of 88 feet eastwardly.

**SUBJECT: PARKING PROHIBITION - ST. PAUL STREET**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance repealing Ordinance #3730, adopted April 10,

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1973, which established no parking on the south side of St. Paul Street beginning at a point at the west curb line of Roxboro Road, if extended, and extending from that point westwardly for a distance of 230 feet; and

To adopt an ordinance to establish no parking at any time on the south side of St. Paul Street beginning at a point at the west curb line of Roxboro Street, if extended, and extending from that point westwardly for a distance of 171 feet was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: PARKING PROHIBITION - COOPER STREET**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance to prohibit parking at any time on the north and south sides of Cooper Street, in the area beginning at a point 1,120 feet east of the east curb line of Bacon Street, if extended, and extending eastwardly to the end of street maintenance was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the official minutes of the regular December 7, 1998, December 21, 1998 and January 4, 1999 City Council Meetings was approved at 7:44 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: Water Main - Lyckan Park Way** from West Property Line of Tax Map 465-1-4A to East Property Line of Tax Map 465-1-10

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no



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objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water main on Lyckan Park Way from west property line of Tax Map 465-1-4A to east property line of Tax Map 465-1-10 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Water Main - Faith Drive** from Cheek Road to Folkston Drive

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution confirming the assessment roll for water main on Faith Drive from Cheek Road to Folkston Drive was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Sewer Main - Cooksbury Drive** from Cul-de-sac to East Geer Street; **East Geer Street** from Cooksbury Drive to Red Mill Road; and **Red Mill Road** from East Geer Street to Gorman Church Road

To adopt a resolution confirming the assessment roll for sewer Main on **Cooksbury Drive** from cul-de-sac to East Geer Street; **East Geer Street** from Cooksbury Drive to Red Mill Road; and **Red Mill Road** from East Geer Street to Gorman Church Road.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Mr. Dan Newnam, a resident of Cooksbury Road, raised concern with this assessement regarding the prices quoted in a previous letter addressed to him.

Along with Mr. Newnam's property, Lee Murphy, of the Public Works

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Department, informed the council of three additional individuals raising objections: Claude Cook; Otha Cooley; and William O'Quinn. Mr. Murphy asked that the public hearing be continued without further advertising and the matter referred to the February 8, 1999 Public Works Committee.

**MOTION** by Council Member Blyth seconded by Council Member Miller to continue the public hearing without further advertising and to refer the matter to the February 8, 1999 Public Works Committee was approved at 7:52 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: WATER MAIN - LONGLEAF DRIVE FROM NORTH PROPERTY LINE OF TAX MAP 825-1-47 TO DONPHIL ROAD**

To adopt a resolution ordering water main on Longleaf Drive from north property line of Tax Map 825-1-47 to Donphil Road.

Lee Murphy, of the Public Works Department, stated that the residents who signed the petition were in the process of resolving some concerns. Mr. Murphy asked that the public hearing be continued without further advertising and referred to the January 25, 1999 Public Works Committee Meeting.

**MOTION** by Council Member Larson seconded by Council Member Miller to continue the public hearing without further advertising and refer to the January 25, 1999 Public Works Committee Meeting was approved at 7:53 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CITIZEN PARTICIPATION IN BUDGET-RELATED ACTIVITIES**

a. Fiscal Year 1999-2000 Budget

To receive citizens' comments concerning the Fiscal Year 1999-2000 Budget.

b. Fiscal Year 2000 to Fiscal Year 2005 Capital Improvement Plan

To receive citizens' comments concerning the Fiscal Year 2000 to Fiscal Year 2005 Capital Improvement Plan.

As this was the time and place set for the public hearing, anyone

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interested was given the opportunity to be heard.

Doris Taylor, representing the People's Alliance, noted the following areas in which the City Council can directly and positively impact the lives of community members: 1) taxes; 2) jobs; 3) development; 4) transportation; and 5) crime. She noted the People's Alliance supported progressive taxation and repeal of the aggressive taxes such as a local sales tax on food. She asked the council to support the request of city workers for higher wages and safer working environments particularly sanitation workers and to provide incentives to developers to provide well paying jobs.

Bernard Obie, representing Fisher Heights Neighborhood, asked council to support a community center for the Fisher Heights Neighborhood.

Lorisa Seibel ask council to take into consideration the comments made earlier by the students of East Way Elementary School. Also, Ms. Seibel emphasized the importance of the city making every neighborhood a safe and good place to live.

Mayor Tennyson asked if there were other individuals present wanting to speak to this item. The public hearing was closed by the Mayor.

A motion was made by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the Fiscal Year 1999-2000 Budget and to receive citizens' comments concerning the Fiscal Year 2000 to Fiscal Year 2005 Capital Improvement Plan.

Council Member Blyth requested the administration to include the comments from the students of East Way.

Council Member McKissick noted citizens could also express their interest and concerns during the upcoming Coffee With Council Sessions.

**MOTION** by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the Fiscal Year 1999-2000 Budget; and

To receive citizens' comments concerning the Fiscal Year 2000 to Fiscal Year 2005 Capital Improvement Plan was approved at 8:03 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

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**SUBJECT: 1999-2000 CONSOLIDATED NEEDS PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM NEEDS**

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Linda Shaw spoke in support of decent drinking water for Kennington Heights Subdivision and asked council to consider including this community in the Community Development Block Grant plans.

Mayor Tennyson asked if there were other individuals present wanting to speak. The public hearing was closed by the Mayor.

**MOTION** by Council Member Larson seconded by Council Member Miller to receive citizens' comments on needs and to receive proposals concerning Community Development Block Grant and HOME Program needs in Durham for the 1999-2000 program year was approved at 8:06 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS - STONE ROAD INDUSTRIAL PARK, UMSTEAD ROAD SUBDIVISION, COUNTRY CLUB HEIGHTS AND AUMAN PROPERTY**

a. FY99-06 - Stone Road Industrial Park

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the annexation of Stone Road Industrial Park, which consists of 53.65 acres non-contiguous to the City Limits, located between Durham Freeway 147 and Angier Avenue, northwest of Stone Road; and

To adopt "An ordinance Annexing to the City of Durham An Area Hereinafter Described Which is Not Contiguous to the Present Corporate Boundary of the City of Durham, Under the Provisions of NCGS 160A-58 Et. SEQ. (Stone Road Industrial Park)" was approved at 8:07 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and

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Miller. Noes: None. Absent: None.

b. FY99-08 - Umstead Road Subdivision

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the annexation of Umstead Road Subdivision, which consists of 69.32 acres contiguous to the City Limits, located in northwest Durham at the intersection of Umstead and Bivins Roads; and

To adopt "An ordinance Annexing to the City of Durham An Area Hereinafter Described Which Abuts Directly on the Present Corporate Boundary of the City of Durham, Under the Provisions of NCGS 160A-31 Et. SEQ. (Umstead Road Subdivision)" was approved at 8:07 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

c. FY99-09 - Country Club Heights

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to receive citizens' comments concerning the annexation of Country Club Heights, which consists of 91.57 acres non-contiguous to the City Limits, located at the intersection of Craig and Umstead Roads; and

To adopt "An ordinance Annexing to the City of Durham An Area Hereinafter Described Which is Not Contiguous to the Present Corporate Boundary of the City of Durham, Under the Provisions of NCGS 160A-58 Et. SEQ. (Country Club Heights)" was approved at 8:08 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

d. FY99-11 - Auman Property

To receive citizens' comments concerning the annexation of Auman

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Property, which consists of 30.01 acres contiguous to the City Limits, located between Herndon Road and Grandale Drive, north of Glendale Forest Subdivision.

To continue the **public hearing concerning the annexation of Auman Property (without further advertising) until the February 1, 1999 City Council Meeting.**

Dawn Huynh, of the Treasury Division, stated the administration is requesting that this annexation be removed from the agenda at the request of the petitioner. Also, she asked that this item be referred to the administration.

**MOTION** by Council Member Larson seconded by Council Member Miller to refer this item to the administration was approved at 8:09 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-38, MIDLAND 751 DEVELOPMENT COMPANY, LLC, SOUTHEAST CORNER OF I-40 AND NC 751 INTERCHANGE**

Case: P98-38

Applicant: Midland 751 Development Company, LLC

Location: 101.86 acres on the southeast corner of the I-40/NC 751 interchange; identified as Tax Map 234-1-7D

Request: **Rezoning from** OI-2(D) (General Office and Institutional District with a Development Plan) **to** OI-2(D) (General Office and Institutional District with a Development Plan), NC(D) (Neighborhood Commercial District with a Development Plan), and RM-12(D) (Multifamily Residential District, maximum of 12 dwelling units per acre with a Development Plan); F/J-B (Falls/Jordan Protected Area) and MTC (Major Transportation Corridor)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2(D) and placing same in and establishing same as OI-2(D), NC(D), RM-12(D); F/J-B and MTC.

Zoning Committee's Recommendation and Vote: Approval 6-1

City Manager's Recommendation: Approval

Mayor Tennyson stated the standard practice of the City Council is to allocate 15 minutes to the proponents for a zoning action and 5 minutes for rebuttal, and opponents are allocated 15 minutes with

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no rebuttal. The Mayor noted since there were two interrelated zoning cases, a single staff presentation will be given on both cases. He stated it has also been suggested that a single public hearing be held on Zoning Cases P98-38 and P98-39 giving the proponents and opponents 30 minutes each. Mayor Tennyson asked if there was anyone present wanting to register a complaint in having these two cases as a combined public hearing. **[No complaints were registered]**

The Mayor noted the Council would be voting on each zoning case separately.

City Manager Ewell briefed council on the outline of the staff presentations to be given. He noted subsequent to the Committee-of-the Whole Meeting held on Thursday, January 14th, the staff would be introducing additional information. City Manager Ewell stated both developers have amended their development plan.

Paul Norby, Director City/County Planning Department, made a presentation on Land Use Issues and Background Issues for both Zoning Cases P98-38 and P98-39.

Mark Ahrendsen, Transportation Manager, made a presentation on Transportation Issues for the Southwest Durham Area. Also, he provided an overview of a Transportation Study recently completed for Southwest Durham.

Ted Abernathy, Economic Development Director, made a presentation on Economic Development Issues regarding current marketing retail conditions, potential fiscal impacts of the proposed projects, and the impact on existing retail.

Dick Hails, Assistant Planning Director, made a presentation on the Common Features of both rezoning cases and Relevant Excerpts from the Durham 2020 Comprehensive Plan.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, made a presentation on Zoning Case P98-38 as follows:

Zoning Case P98-38 Midland Properties 751 - Mr. Abdul-Hakeem outlined the rezoning request from Midland Properties noting the location, acreage, zone being requested, surrounding zoning, the development proposal, compatibility with adjacent uses, development trends and conformity with adopted plans. He stated that a new parkway road will be constructed between NC 751 and Fayetteville Road and a public road stub-out runs from the parkway to the adjacent property on the south. Also, he noted a private loop road will provide access to the hotels, restaurant and convenient store. He noted that the site has about 42 percent of

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impervious surface and there are four storm water detention ponds on site to control the runoff.

Earl Lewellyn, of the Transportation Division, made a presentation on the traffic issues regarding Zoning Case P98-38 Midland Properties. He noted the proposed mix-use site is estimated to generate 1240 trips during the peak hour and 13,094 daily; therefore, a traffic impact analysis was required. He noted there were no reductions for passby traffic, internal trips, transit capture or double counting of trips. Mr. Lewellyn noted that roadway improvements and traffic signals are recommended:

1. Beginning at the intersection of NC 54 and NC 751 construction of an eastbound left turn lane; and construction of an eastbound right turn lane; and a northbound through lane;
2. Near I-40 - NC 751 would be widen to a general five (5) lane cross section which would require the widening of the bridge structure to accommodate five lanes.
3. A right turn lane is proposed on the eastbound exit ramp of I-40.
4. An exclusive northbound right turn lane is recommended on NC 751 at the I-40 eastbound access ramp.
5. In addition a traffic signal is recommended at both ramp terminals.
6. South of I-40 cross section of NC 751 should expand to six (6) lanes providing dual left turns into Southpoint Parkway as well as two (2) lanes in each direction both north and south.
7. Construction of Southpoint Parkway is also proposed to be a four lane divided facility accommodating landscaping, sidewalks, trails and bike lanes.

Mr. Lewellyn stated staff recommends completion of the parkway from NC 751 to Fayetteville Road prior to full build out of the mix-use project. Also, he noted traffic signals are proposed at Southpoint Parkway and NC 751. Mr. Lewellyn stated with the recommended improvements at all intersections within the study area will operate at a Level of Service C with one exception "the intersection of NC 54 and NC 751 will operate at LOS D." He noted an analysis of I-40 was also performed and it currently operates at a Level of Service F; however, I-40 is scheduled to be widen to six lanes with construction beginning in 2001 and with this widening I-40 is anticipated to operate at Level of Service D with traffic generated from the proposed mall and mix-use development.



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Also, Mr. Lewellyn noted transit service is intended to be provided through the extension of existing routes providing service every 30 minutes to the site.

In summary, Mr. Lewellyn stated it was the staff's understanding that all of the recommendations have been agreed to with the roadway improvements that are proposed and the intersections operating at a LOS C, with one exception the intersection of NC 54 and NC 751 which will be improved to LOS D.

Dick Hails, Planning Manager, summarized the staff report. He noted it was important for council to consider all permitted uses within the zones being requested. Mr. Hail stated it was the staff's understanding that the applicant has agreed to all of the staff recommendations and requested that the applicant confirm or address same during the public hearing. Mr. Hail stated the staff recommended approval of Zoning Case P98-38 on condition that the applicant agrees to all recommendations by the staff.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, made a presentation on Zoning Case P98-39 as follows:

Zoning Case P98-39 Urban Retail Properties Company - Mr. Abdul-Hakeem outlined the rezoning request from Midland Properties noting the location, acreage, zone being requested, surrounding zoning, the development proposal, compatibility with adjacent uses, development trends and conformity with adopted plans. He noted the proposed mall would have up to 1.3 million square feet in space and will be the single largest shopping facility in Durham. He stated that a new parkway road with a landscaped median is proposed for construction between Fayetteville Road and NC 751 to serve the development. Also, a public road stub-out is also proposed to provide access to the proposed property south of the site.

Sue Burke, Stormwater Services Manager, made a presentation on the Environmental Impacts regarding this proposed project. Ms. Burke noted that the site was in the Falls Jordan B protected area and stormwater management facilities are required for the proposed zoning and development. She noted the proposed ponds will serve as water quality measures for on-site and upstream off-site areas.

Ms. Burke stated piping the intermittent streams would eliminate the stream buffers; however, the water quality impacts associated from the piping will be offset by the proposed ponds. She stated that a severe storm such as Hurricane Fran could cause downstream flooding as in many locations throughout the city, but the ponds proposed will provide some relief. Ms. Burke noted the proposed stormwater ponds will provide water quality protections as well as

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flood control to downstream areas and provide the necessary water quality protection to Jordon Lake.

Earl Lewellyn, Transportation Engineer, made a presentation on the Transportation Issues. He noted that a traffic impact analysis was required for this development based on the projected peak hour trip generation of 3,413 trips. He noted there were no reductions for passby, internal trips, transit capture or double counting of trips associated with other developments. He noted with the analysis of I-40 there was a reduction for passby trips for this site. Mr. Lewellyn stated roadway improvements and signalization are recommended in order to maintain an acceptable level of service as follows:

1. Beginning at the intersection of NC 54 and Fayetteville Road -northbound through lane, eastbound through lane, eastbound right turn lane and a westbound right turn lane.
2. To address the congestion between the area of the I-40 westbound ramp and NC 54 - shifting the westbound ramps approximately 100 feet to the south along with associated widening of Fayetteville Road and the I-40 ramps.

Mr. Lewellyn stated based on the analysis, the above recommended improvements would provide a Level of Service D at this intersection while addressing the queuing problems currently occurring between westbound ramps and the NC 54 and Fayetteville Road intersection.

3. Construction of a signal point urban diamond (SPUD) interchange redesign would provide a Level of Service C at the resulting signal.
4. Six lanes across the bridge (including widening of the bridge).
5. South of I-40 the cross section should transition into four a lane divided cross section to be landscaped as appropriate.
6. Construction of Southpoint Parkway to a four lane divided facility from NC 751 to Fayetteville Road accommodating landscaping, bike and trails as well as transit service.
7. Signals are recommended at the ramp terminals on the I-40 interchange at the main site entryway and at the Southpoint Parkway Intersection with Fayetteville Road.
8. Included in the city's Capital Improvement Program is the widening of Fayetteville Road to five lanes proposed from

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Woodcroft Parkway to NC 54 with right-of-way acquisition to begin FY 99 and construction beginning in year 2000. There are improvements on Fayetteville Road north of NC 54 that are necessary to mitigate site traffic. If the mall should be constructed prior to the CIP project being implemented, the developer should be responsible for this improvement and any right-of-way necessary to accommodate these improvements.

Mr. Lewellyn noted all intersections within the study area will operate at Level Service C or better with the recommended improvements with the exception of the NC 54-Fayetteville Road intersection. He noted the current LOS at this intersection was E but the recommended improvements shown on the plan would bring the LOS to D and also mitigate the queuing problem in this area. Also, Mr. Lewellyn noted an analysis of I-40 was provided indicating current Level of Service as F; however, with the widening of I-40 to six lanes with construction to begin in 2001, I-40 should accommodate the site for traffic from both developments at a Level of Service D.

Mr. Lewellyn stated it was his understanding that the developer has offered the following additional improvements and intends to amend the development plan to reflect the following:

1. Construction of a single point urban diamond interchange
2. Improvements which will maintain Level of Service C at the intersection of Fayetteville Road and NC 54.
3. Mast arms and decorative poles for traffic signals and street lighting.
4. Offering to conduct a study at the intersection of Fayetteville and Herndon approximately two years after the opening of the mall. If a signal at that point is recommended by the staff, the developer has offered to install signal.

Mr. Lewellyn noted with these additional improvements Level of Service C will be maintained at all intersections within the study area.

Dick Hails, Planning Manager, summarized the staff report. He noted it was important for council to consider all permitted uses in the requested zone. Mr. Hail noted written documentation has been received that the applicant has committed to carry out all the staff recommendations requested and additional improvements. He noted conditional on carrying out of all the agreements, the staff recommended approval of the rezoning.

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Mayor Tennyson opened the public hearing on Zoning Case P98-38 and Zoning Case P98-39 allocating 30 minutes for the proponents and 30 minutes for the opponents.

### **Proponents**

Attorney Ken Spaulding, representing Midland Properties and Urban Retail Properties, stated the Midland rezoning request was for 102 acres in a mix-use development consisting of apartments, office, a hotel, restaurants and convenient store. Attorney Spaulding stated his applicant would be working to develop the Southpoint Parkway at the owner's expense and involved with the improvements at NC 751 and NC 54 and they have addressed the stormwater runoff issues. Attorney Spaulding requested the support of the Midland application.

With reference to Urban Retail Properties, Attorney Spaulding stated 140 acres of property will have a master plan and have wide buffers and a layout that respects the topography with natural floor level design. He noted the applicant would be spending approximately \$14 million to address existing issues and future issues. He noted they have chosen to build the single point urban diamond because it will provide an efficient and dramatic entrance way to the mall and the Level of Service at Fayetteville Road and NC 54 will be raised to a C level. He noted they have dealt with the environmental issues. Attorney Spaulding requested council's support of Urban Retail Properties.

John Silverman, representing Midland 751 Properties, briefed council on the details of the both projects highlighting the following: 1) Southpoint Parkway; 2) The Impervious Surface; 3) Re-establishment of the American Tobacco Trail; 4) Buffers; 5) No outparcels Located at the Mall; 6) Office Buildings designed in a campus like environment; and 7) Multi-Family Segment. Also, Mr. Silverman noted the high level of quality these projects will bring to the region.

James Farrell, representing Urban Retail Properties, briefed council on other properties owned by Urban Retail across the country. Mr. Farrell stated their goal was to develop, own and manage a first class regional shopping center in Durham. Also, Mr. Farrell noted the features of the proposed mall. He requested approval of the project.

John Silverman stated they have addressed every issue that has been raised, they have made every change requested and complied with each and every traffic improvement suggested. He noted they recognize the real concerns of the neighbors and they have made

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improvements to gain support from the residents.

Mayor Tennyson noted the remaining time for proponents wishing to speak.

The following citizens spoke in support of Southpoint: Sarah Beddingfield; Larry Hester and Sandra Battle.

At this time, the following motion was made:

**MOTION** by Council Member McKissick seconded by Council Member Blyth to add an additional 15 minutes per side [proponents and opponents] was approved at 10:08 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

The following citizens spoke in support of Southpoint: Bill Bussey; Scott Gardner; Alvin McMillian; Reverend Scott; Curtis Gatewood; Glyndola Beasley; Grace Jones; Bob Novak; Todd Patton; Tom Davis and Charles Brown.

### **Opponents**

Pat Bocckino, representing CAUSE, provided a petition containing 3200 signatures opposing the mall. Ms. Bucckino asked the council to reject both proposals.

Attorney David Lewis, representing Willie Bigelow & Others, noted the requested zonings violate the comprehensive land use plans. Attorney Lewis asked the council to uphold Durham's trust by voting no on the rezoning requests.

Attorney William Marsh, representing Kennington Heights residents, spoke in opposition to the proposed mall. He stated the quality of life for 17 homeowners will be disturbed by this rezoning. Attorney Marsh stated the council had the responsibility to protect the quality of life for all their citizens.

Due to un-controlled growth, impact to the existing malls, existing neighborhoods, quality of life and traffic, the following citizens spoke in opposition to Southpoint: George Brine; Helen Ellison; Brian Eichler; Steve Bocckino; Ricky Bell; Nancy Herndon; Ed Harrison; Jim Thompson; Earl Maynard; Jim McDonald; Faith Herndon; Lorrie Tomek; Willie Bigelow; Larry Holt; Gerald Emison; and Mike Shiflett.

Mayor Tennyson noted that Mayor Pro Tempore Capowski of the Chapel

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Hill Town Council delivered a Resolution passed by their governing body regarding the two proposals.

### **Rebuttal**

John Silverman noted some of the information stated by citizens this evening was confusing. He noted they were in receipt of a petition signed by 17 residents favoring the proposal and the opponents state they have a petition signed by 17 residents opposing the proposal. He noted there were only 21 residents in Kennington Heights. He stated their consultants used traffic counts from 1998 not 1994. Mr. Silverman stated they have worked with Triangle Transit Authority and they have an agreement with them and DART and there will be stops at the mall, stops at the Southpoint project, and promoting pedestrian friendly environment in a transit friendly environment. Also, Mr. Silverman noted they were spending in excess of \$13 million in traffic improvements. With regard to the Triangle Township Plan, he noted they were able to meet with six members who worked on this plan and only one member felt the proposed plan violated the Triangle Township Plan.

For the record, Mr. Silverman made available a letter to the Mayor from a proponent who was unable to attend the meeting this evening.

City Attorney Henry Blinder stated he would like to make the following cautionary remarks as council considers the rezonings: 1) Council should not rely on the particular characteristics of a developer or a developer's history in making a decision; 2) Council should not rely on representations that particular high end stores or other particular types of stores be part of the proposed mall; and 3) The shopping center zoning category allows for other types of uses aside from retail and should be considered when making a decision.

Paul Norby, Director of City/County Planning, briefed council on other uses allowed in the requested rezoning. Mr. Norby also noted that the rezoning case has a development plan attached and the development plan provides a number of physical specifications for how the project will be laid out.

Mayor Tennyson closed the public hearing on Case P98-38 and Case P98-39.

Council Member McKissick asked the administration to clearly state staff recommendations relating to traffic improvements at the intersection of I-40 and Fayetteville Road.

Earl Lewellyn, of the Transportation Division, stated staff recommends shifting the westbound ramps further south providing

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additional lanes along Fayetteville Road and along the westbound ramps themselves and providing additional lanes at the intersection of NC 54 and Fayetteville Road. He noted this was an acceptable solution and provided an adequate Level of Service at the intersection and did address the queuing problem being experienced between those two intersections.

A representative of NCDOT addressed the council on the initial traffic proposals submitted by the applicant. The representative noted the current traffic proposal [spud interchange] mentioned this evening was a positive step in accommodating the traffic impacts of a mall that could also have longer traffic life operations for the entire interchange area.

Council Member McKissick asked the administration what would be the Level of Service at the intersection of Fayetteville Road and NC 54 with the revisions made today by the developer.

Earl Lewellyn, of the Transportation Division, stated with the improvements recommended today this will allow that intersection to operate at a Level of Service C.

Council Member McKissick asked if there were other improvements offered by the developer which are reflected in the material this evening.

Earl Lewellyn, of the Transportation Division, noted the developer has offered to examine the intersection of Fayetteville Road and Herndon Road to determine whether or not a signal would be warranted at that location and the study will be performed approximately 2 years after the mall opens, and should a signal be warranted and recommended by the staff, the developer has offered to install the signal.

Council Member McKissick asked the administration what is the current proposal for improvements at the intersection of NC 54 and NC 751 (Hope Valley Road).

Earl Lewellyn, of the Transportation Division, stated the improvements that are currently proposed would allow the intersection to operate at a Level of Service D. Mr. Lewellyn stated the intersection is currently operating at a Level of Service E.

Council Member McKissick asked if mast arms, street lights; etc. have been agreed to by the developer.

Earl Lewellyn, of the Transportation Division, stated the developer has offered to use mast arm type installation for

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traffic signals as well as metal or fiberglass decorative poles for the street lights.

Council Member McKissick asked if the architectural renderings are presently a part of the revised plan being considered this evening.

Nazeeh Abul-Hakeem, of the City/County Planning Department, stated the applicant has indicated that the renderings are a part of the development plan and there will be a note addressing that on the final plan approval. Also, Mr. Abdul-Hakeem noted they will also be attached.

Council Member McKissick asked the administration if the information referencing the connections to the American Tobacco Trail; bikeways; sidewalks; and \_\_\_\_\_ plan was presently a part of what is being considered.

Paul Norby, Planning Director, stated yes it was on the development plan and has been there for sometime.

Council Member McKissick asked the administration if the information referencing Southpoint Drive as a landscaped parkway was a part of the plan being considered.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, replied that is part of the plan.

Council Member McKissick asked the administration if the information specifying the buffers was shown on the development plan.

Paul Norby, Planning Director, replied yes and measurable as well.

Council Member McKissick stated from a land use planning perspective, this particular site on I-40 running from NC 751 to Fayetteville Road is one of the most logical sites for a regional mall. Council Member McKissick noted he would be supporting the proposal because he felt it would be good for the entire community.

Council Member Larson asked for clarification on discussions regarding screens.

John Silverman stated there have been discussions with one of the Abron Drive residents requesting solid wood fencing; a berm or extra shrubs. Mr. Silverman stated they have agreed to this issue and would include a note addressing same.

Mayor Pro Tempore Clement spoke in support of the proposals.



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A motion was made by Mayor Pro Tempore Clement to approve the Zoning Case P98-38, Midland Properties. This motion was seconded by Council Member Blyth.

Council Member Miller asked what impacts would the developments have on the intersections at NC 751 and Garrett Road; NC 751 and Woodcroft Parkway; NC 751 and South Roxboro Street.

Earl Lewellyn, of the Transportation Division, stated an analysis was done which indicated that the Garrett Road and Woodcroft Parkway intersections would operate at a Level of Service C. With regards to South Roxboro Street, Mr. Lewellyn stated currently they did not have any turning movement count data available; however, with the signal that has been recently approved the administration certainly expects an acceptable Level of Service.

Council Member Miller stated the proposal will have a net positive economic affect for Durham. He noted he would be supporting both proposals.

Council Member Cox spoke in support of the requests.

Council Member Langley spoke in support of the proposals.

Council Member Jacobs spoke in support of the requests.

Council Member Blyth spoke in support of the requests.

Council Member Brown spoke in opposition to the requests noting the lack of compliance with the Triangle Township Plan; the traffic impact; and the types of jobs that will be created.

Council Member Engelhard expressed concern with air quality issues. Ms. Engelhard stated she would be voting against both requests.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Blyth to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2(D) and placing same in and establishing same as OI-2(D), NC(D), RM-12(D); F/J-B and MTC was approved at 1:07 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Council Members Brown and Engelhard. Absent: None.

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**SUBJECT: ZONING MATTER CASE P98-39, URBAN RETAIL PROPERTIES COMPANY, SOUTHWEST CORNER OF THE INTERSECTION OF INTERSTATE 40 AND FAYETTEVILLE ROAD**

Case: P98-39

Applicant: Urban Retail Properties Company

Location: The site is comprised of 51 properties totaling 141.52 acres on the southwest corner of the intersection of Interstate 40 and Fayetteville Road (Tax Map 525, Block 1, Lot 8; Tax Map 525, Block 2, Lots 2, 2A-E, 4 and 5; Tax Map 794, Block 1, Lots 1-10, Tax Map 794, Block 2, Lots 1, 2, 3, 4, 6, 7, 8 and 9; Tax Map 794, Block 7, Lots 1-7 and 10-13; Tax Map 794, Block 8, Lots 1-13)

Request: **Rezoning from** RD (Rural District), OI-2 (General Office and Institutional District) and SC (Shopping Center District) **to** SC(D) (Shopping Center District with a Development Plan); F/J-B (Falls/Jordan Protected Area) and MTC (Major Transportation Corridor)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD, OI-2 and SC and placing same in and establishing same as SC(D); F/J-B and MTC.

Zoning Committee's Recommendation and Vote: Approval 6-1

City Manager's Recommendation: Approval

**Note: Invalid and insufficient protest petition filed against this zoning case.**

**Note: Please refer to Zoning Case P98-38 for staff report and public comments.**

**MOTION** by Council Member McKissick seconded by Mayor Pro Tempore Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD, OI-2 and SC and placing same in and establishing same as SC(D); F/J-B and MTC was approved at 1:08 a.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: Mayor Tennyson and Council Members Brown and Engelhard. Absent: None.

**[OTHER MATTERS]**

**SUBJECT: CABLE TELEVISION**

a. Report from William Cook, Cable Franchise Renewal Consultant-

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**-presentation has been rescheduled to be given at the January 28, 1999 Committee-of-the-Whole Meeting)**

b. Cable Television - 1999 Rate for Basic Service Tier

The Mayor noted that no one had signed up to speak to this item.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Larson to receive and accept the report of the Cable Consultant to Triangle J Council of Governments; and

To receive citizens' comments regarding the 1999 maximum permitted rate for the basic service tier; and

To adopt the Order regarding Time Warner Cable's 1999 proposed maximum permitted basic service tier rate was approved at 1:09 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: PURCHASE OF EXCESS LIABILITY INSURANCE - RANGER INSURANCE COMPANY**

**MOTION** by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into a contract with the Ranger Insurance Company for the purchase of excess liability insurance at a premium of \$240,000 for the first year, with annual premium increases limited to 2% of the prior year's premium, for a period of five years, effective January 20, 1999; and

To adopt "An Ordinance Amending the 1998-99 City of Durham Budget Ordinance, As Amended, the Same Being #11475" was approved at 1:09 a.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 1:09 a.m.

D. Ann Gray  
Deputy City Clerk

Margaret M. Bowers, CMC  
City Clerk

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